IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 4665 OF 2004

IN

CRIMINAL APPEAL NO.968 OF 2004

Shri Mahadev Bhima Bhoi .. Applicant

versus

The State of Maharashtra .. Respondents

...

Mr.D.A. Nalavade for the applicant.

Mr.R.Y. Mirza, APP for the State.

CORAM : V.M. KANADE, J

DATED : 1st November 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted by the Addl.Sessions Judge, Gadhinglaj in Sessions Case no.12

of 2003 for the offences punishable u/s.307 r/w sec.34 of the IPC and is sentenced to undergo RI for five years. The prosecution case is that on 30th March 2002, four unknown persons assaulted Maruti Banne while he was sleeping by inflicting stick blows and they tried to strangulate him by means of rope. FIR was lodged and the accused were arrested. The trial Court has convicted the accused for having committed offence u/s.307 r/w sec.34 of the IPC. PW no.1 in his evidence has stated that PW no.10 was assaulted by unknown persons. Pw no.10 however has stated that he was sleeping in his field. However, he was assaulted by the applicants and he saw the applicants assaulting him. He has stated that the accused has assaulted him since he suspected that PW no.10 was having an extra marital relations with the wife of the accused Shankar. The applicants were on bail during trial.

3. In my view this is a fit case where the applicant is entitled to be released on bail. The applicant be released on bail in the sum of Rs.5,000/- with one or two sureties in like amount.

V.M.KANADE, J